IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 37433 of 2004(F)

AGAINST THE ORDER DATED 09/11/2004 IN I.A.2016 of 2004 IN OS.68/1998 of ADDL.MUNSIFF COURT, KOLLAM

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PETITIONER:

ANIL RAJAN, NEDIYAMANGALATHU VEEDU,
NADUVILAKKARA CHERRY, MAYYANAD VILLAGE,
KOLLAM.

BY ADV. SRI.B.SURESH KUMAR
SMT.C.G.PREETHA

RESPONDENTS:

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1. MOLY MATHEWS, NEDIYAMANGALATHU,
NADUVILAKKARA CHERRY, MAYYANAD VILLAGE, KOLLAM.

2. NIKITHA MATHEWS, NEDUMANGALATHU,
NADUVILAKKARA CHERRY, MAYYANAD VILLAGE,
KOLLAM.

3. AJITH RAJAN, NEDIYMANGALATHU VEEDU,
NADUVILAKKARA CHERRY, MAYYANAD VILLAGE,
KOLLAM.

4. AJAY RAJAN, NEDIYAMANGALATHU VEEDU,
NADUVILAKKARA CHERRY, MAYYANAD VILLAGE, KOLLAM.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SMT.M.A.THASNIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the impleading application (I.A..No.2016/04 in OS No.68/98) filed before the Additional Munsiff Court, Kollam.

Ext.P2: True copy of the objection dated 2-7-2004 filed by defendants 2 and 3.

Ext.P3: True copy of the order dated 9-11-2004 in I.A. No.2016/04 in OS No.68/98 passed by the Additional Munsiff Court, Kollam.

// True copy //

P.A. to Judge

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M.N.KRISHNAN, J.

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W.P.(C)NO.37433 OF 2004

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Dated this the 30th day of January 2007

JUDGMENT

This writ petition is filed against the order of the Additional Munsiff in I.A.No.2016/2004 in O.S.68/1998. The suit is one for a direction to the defendant and his family members to give vacant possession of 3 rooms and a kitchen on the northern side of the building. The original defendant died and hence additional defendants 2 and 3 were impleaded as additional D2 and D3. The plaintiffs claimed right through Sthreedhanakkuri deed 5920/1120. The original defendant claimed her property by virtue of a document 1804/1968. Supplemental defendants claimed the property under a proceeding under L.A.No.498/1976. The question that arises for determination is whether the plaintiff has got title to the property. The plaintiff will succeed or not on the basis of his document of title and the relative title is not to be considered while deciding the question of title of the plaintiff. Therefore, the approach of the court not to implead the supplemental defendants appears to be correct. In case if it is felt at a later stage after adducing evidence that in

order to resolve the controversy additional parties are to be impleaded the court at the instance of the party can consider it. At this stage it is quite unnecessary to implead the supplemental defendants and therefore the writ petition is dismissed with the above observation.

M.N.KRISHNAN, JUDGE

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